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Message Text

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PAGE 01 STATE 025833
ORIGIN L-03

INFO OCT-01 EUR-12 NEA-10 ISO-00 SCA-01 OC-06 CCO-00 OCL-00
/033 R

DRAFTED BY L/SCA:REDALTON:EDD
APPROVED BY L/SCA:REDALTON
L/M - MR. SHAMWELL
NEA/ARP-MR J ZIOLKOWSKI
OC/P - MR. J. VANDIVER
L/NEA:DSMALL
----------050058Z 065221 /66
P R 042108Z FEB 77
FM SECSTATE WASHDC
TO AMEMBASSY KUWAIT PRIORITY
INFO AMEMBASSY ATHENS
AMCONSUL FRANKFURT
AMCONSUL KARACHI

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FRANKFURT FOR RFDCO, KARACHI FOR RCO, ATHENS FOR ATO

E.O. 11652: N/A

TAGS: ACOM, PDIP, KU

SUBJECT: KUWAITI APPLICATION OF VIENNA CONVENTION RE
DIPLOMATIC POUCHES AND HAND BAGGAGE

REF: KUWAIT 635 AND PREVIOUS

1. DEPARTMENT CONFIRMS POSITION PARA 3 KUWAIT 635.

2. AT THE TIME OF ITS ACCESSION TO VIENNA CONVENTION ON
DIPLOMATIC RELATIONS, KUWAIT MADE FOLLOWING RESERVATION TO
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PARAGRAPH 3 OF ARTICLE 27:

"IF THE STATE OF KUWAIT HAS REASON TO BELIEVE THAT
THE DIPLOMATIC POUCH CONTAINS SOMETHING WHICH MAY NOT BE
SENT BY POUCH UNDER PARAGRAPH 4 OF ARTICLE 27 OF THE CON-
VENTION, IT CONSIDERS THAT IT HAS THE RIGHT TO REQUEST THAT
THE POUCH BE OPENED IN THE PRESENCE OF THE REPRESENTATIVE

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OF THE DIPLOMATIC MISSION (CONCERNED). IF THIS REQUEST IS REFUSED BY THE AUTHORITIES OF THE SENDING STATE, THE DIPLOMATIC POUCH SHALL BE RETURNED TO ITS PLACE OF ORIGIN." U.S. FILED WRITTEN OBJECTION TO THAT RESERVATION WITH DEPOSITARY IN JUNE 1974. RESULT UNDER TREATY LAW PRINCIPLES IS THAT RESERVATION IS INEFFECTIVE AGAINST U.S.

3. THE LEGISLATIVE HISTORY OF ARTICLE 27 OF DIPLOMATIC RELATIONS CONVENTION SHOWS CLEAR REJECTION OF PRINCIPLE IN KUWAITI RESERVATION. NUMBER OF PROPOSED AMENDMENTS TO ARTICLE 27, PARA 3, DIPLOMATIC RELATIONS CONVENTION (FYI INCLUDING ONE BY U.S. DEL), REJECTED IN FAVOR OF UNADULTERATED INTERNATIONAL LAW COMMISSION TEXT READING "THE DIPLOMATIC BAG SHALL NOT BE OPENED OR DETAINED."

4. YOU SHOULD INFORM KUWAITIS WE REJECT GOK VIEW IT HAS RIGHT UNDER CONVENTION ON DIPLOMATIC RELATIONS TO OPEN OR DETAIN OUR DIPLOMATIC BAG. SUCH CLAIM IS ALSO INCONSISTENT WITH CUSTOMARY INTERNATIONAL LAW ON POINT.

5. IF KUWAITIS RELYING ON ARTICLE 41, PARA 1, OF CONVENTION IN EFFORT LIMIT POUCH FACILITIES, YOU SHOULD POINT OUT THAT ARTICLE 41(RESPECT FOR LAWS AND REGULATIONS OF THE RECEIVING STATE) IS DIRECTED TO PERSONS, NOT TO GOVERNMENTS, AND CANNOT SERVE AS BASIS RESTRICTING RIGHTS OF SENDING STATE UNDER INTERNATIONAL LAW THAT ARE EMBODIED IN ARTICLE 27.

6. AT YOUR DISCRETION YOU MAY POINT OUT THAT SHOULD GOK
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SEEK TO APPLY NEW POLICY TO USG DIPLOMATIC BAG, UNDER ARTICLE 47(2)(A) OF CONVENTION USG WOULD APPEAR TO HAVE LEGAL RIGHT TO OPEN OR DETAIN KUWAITI DIPLOMATIC BAG IN WASHINGTON. SIMILAR RIGHT MIGHT ALSO BE CLAIMED BY MANY OF THE 118 OTHER PARTIES TO DIPLOMATIC RELATIONS CONVENTION.

7. BEFORE DELIVERING NOTE YOU SHOULD CONSULT WITH OTHER COUNTRIES WITH SIMILAR INTERESTS TO OURS, SUCH AS BRITISH AND FRENCH, TO SEE IF PARALLEL NOTES ARE BEING CONSIDERED.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DIPLOMATIC PRIVILEGES, DIPLOMATIC POUCHES
Control Number: n/a
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Sent Date: 04-Feb-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: REDALTON:EDD
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770041-0744
Format: TEL
From: STATE
Handling Restrictions: n/a
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ISecure: 1
Legacy Key: link1977/newtext/t19770271/aaaackqc.tel
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Litigation History:
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Message ID: 29c097cb-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 KUWAIT 635
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 10-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
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SAS ID: 3404163
Secure: OPEN
Status: NATIVE
Subject: KUWAITI APPLICATION OF VIENNA CONVENTION RE DIPLOMATIC POUCHES AND HAND BAGGAGE
TAGS: ACOM, PDIP, KU
To: KUWAIT
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/29c097cb-c288-dd11-92da-001cc4696bcc
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